



March 8, 2001

Ms. Anne M. Constantine
Legal Counsel
Dallas/Ft. Worth International Airport Board
P.O. Drawer 619428
DFW Airport, Texas 75261-9428

OR2001-0914

Dear Ms. Constantine:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 144845.

The Dallas/Ft. Worth International Airport Board (the "board") received a request for information relating to construction of a hotel, and for correspondence with the State Comptroller's Officer related to tax exemptions. You contend that a portion of this information is excepted from disclosure by section 552.107(1) of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.107(1) of the Government Code protects information coming within the attorney-client privilege. In instances where an attorney represents a governmental entity, the attorney-client privilege protects only an attorney's legal advice and the client's confidences made to the attorney. *See* Open Records Decision No. 574 (1990). Accordingly, these two classes of information are the only information contained in the records at issue that may be withheld pursuant to the attorney-client privilege. Section 552.107(1) does not except from disclosure purely factual information such as the recounting of events or the documentation of calls made, meetings attended, and memos sent. *Id.* at 5.

From our review of the submitted information we find that section 552.107(1) applies to most, but not all of the submitted information. Neither your comments nor the documents themselves identify the author or recipient of some of the submitted items. *See e.g. In re Monsanto Co.*, 998 S.W. 2d. 917, 933 (Tex. App. – Waco 1999, no pet.) (attorney client privilege not applicable to report that did not identify author or recipient). As we cannot determine the application of section 552.107(1) to such information, we conclude that this information must be released. We have marked the submitted information in accordance with our conclusions. The information marked to indicate that it is excepted from disclosure may be withheld. The remaining information must be released.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).


If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in dark ink, appearing to read "Michael Jay Burns", with a horizontal line extending to the right.

Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/er

Ref: ID# 144845

Encl: Submitted documents

cc: Mr. Bruno Rumbelow
City Manager's Office
P.O. Box 95104
Grapevine, Texas 76099
(w/o enclosures)